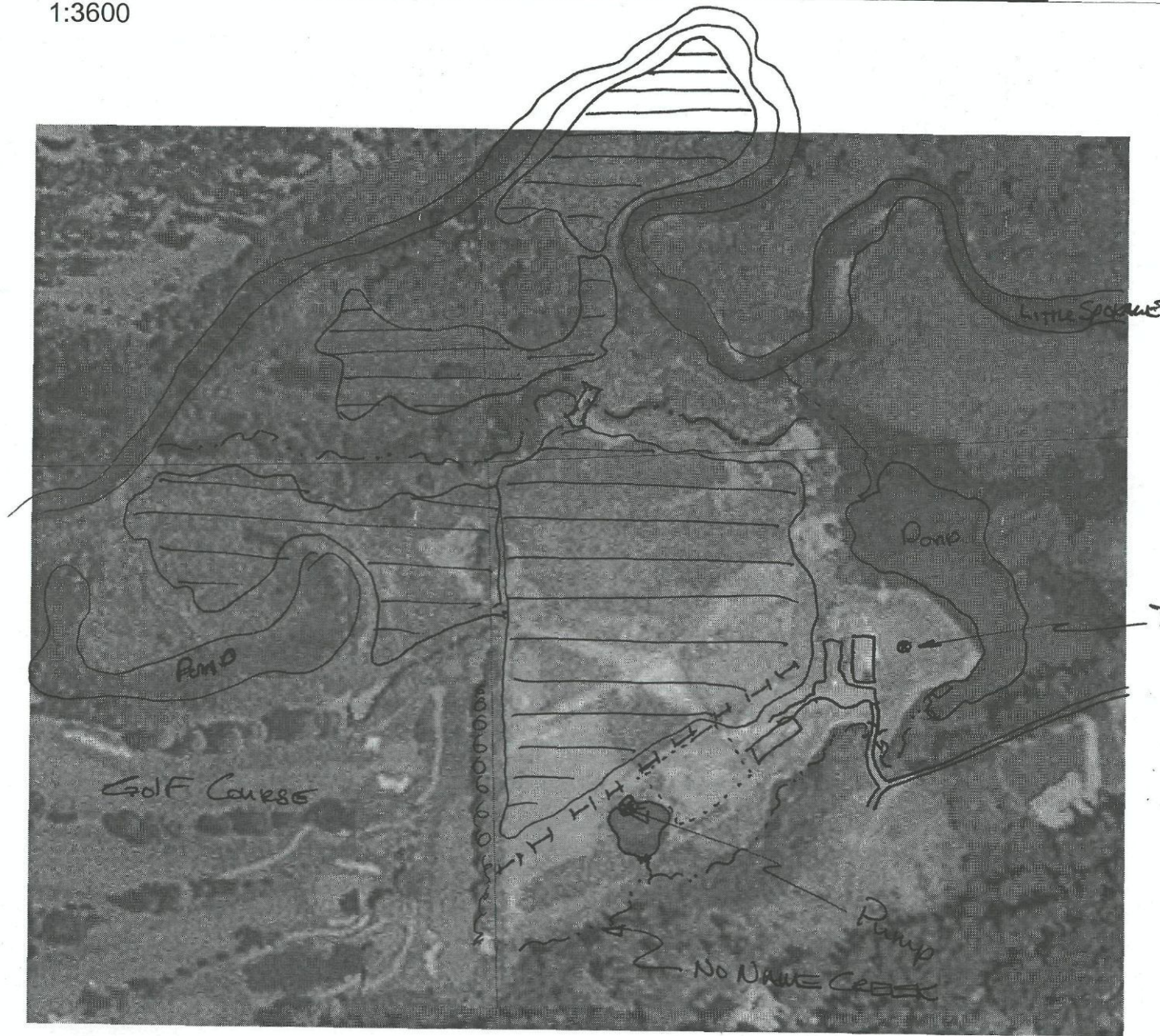
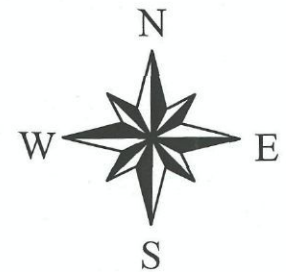


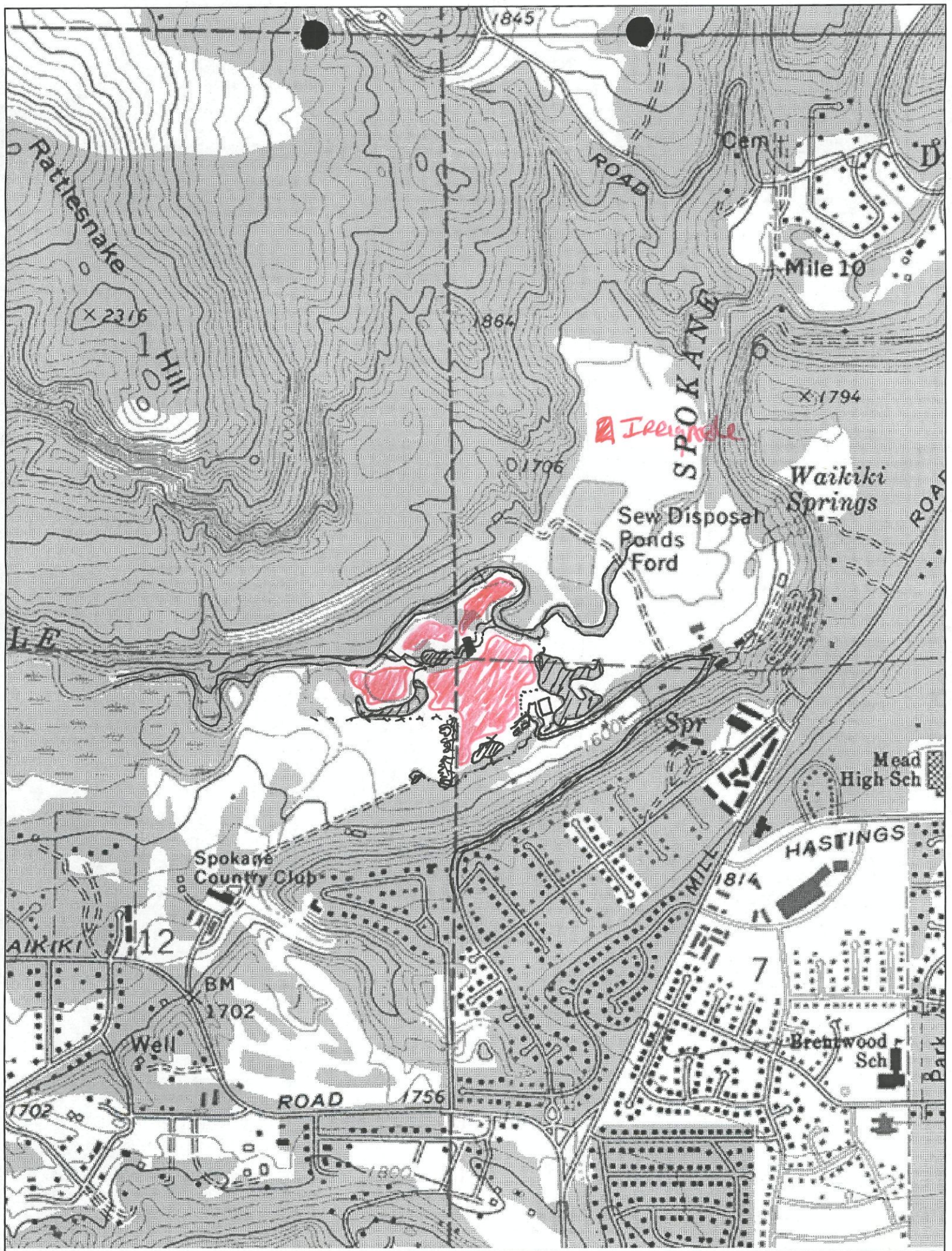


1:3600



 Townline
 Lsr-pls





Chapter 173-555 WAC

WATER RESOURCES PROGRAM IN THE LITTLE SPOKANE RIVER BASIN, WRIA 55

WAC

173-555-010	General provision.
173-555-020	Definition.
173-555-030	Establishment of base flows.
173-555-040	Future allocations—Reservation of surface water for beneficial uses.
173-555-050	Priority of future water rights during times of water shortage.
173-555-060	Streams and lakes closed to further consumptive appropriations.
173-555-070	Effect on prior rights.
173-555-080	Enforcement.
173-555-090	Appeals.
173-555-100	Regulation review.

WAC 173-555-010 General provision. These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Little Spokane River basin, WRIA-55 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-555 WAC. [Order DE 75-24, § 173-555-010, filed 1/6/76.]

WAC 173-555-020 Definition. "NONCOMMERCIAL AGRICULTURAL IRRIGATION" means beneficial use of water upon not more than three acres for the purpose of crops and livestock for domestic use. [Order DE 75-24, § 173-555-020, filed 1/6/76.]

WAC 173-555-030 Establishment of base flows. (1) Base flows are established for stream management units with monitoring to take place at certain control points as follows:

Stream Management Unit Information

Control Station Number, Stream Mana- gement Unit Name	Control Station Location by River Mile and Section, Township Range	Affected Stream Reach
No. 12-4270.00 Little Spokane River Elk	34.6 Sec. 8, T.29N., R.43 E.W.M.	From confluence with Dry Creek to the headwaters including tribu- taries except Dry Creek.
No. 12-4295.00 Little Spokane River Chattaroy	23.05 Sec. 34, T.28N., R.43 E.W.M.	From confluence with Deer Creek to confluence with Dry Creek including tribu- taries except Deer Creek.

Control Station Number, Stream Mana- gement Unit Name	Control Station Location by River Mile and Section, Township Range	Affected Stream Reach
No. 12-4310.00 Little Spokane River Dartford	10.8 Sec. 6, T.26N., R.43 E.W.M.	From confluence with Little Creek to confluence with Deer Creek including tribu- taries except Little Creek.
No. 12-4315.00 Little Spokane River Confluence	3.9 Sec. 3, T.26N., R.42 E.W.M.	From mouth to confluence with Little Creek including tribu- taries.

(2) Base flows established for the stream management units in WAC 173-555-030(1) are as follows:

Base Flows in the Little Spokane River Basin (in Cubic Feet Per Second)

Month 15.00	Day	12-4270.00	12-4295.00	12-4310.00	12-43
		Elk	Chattaroy	Dartford	Confluence
Jan.	1	40	86	150	400
	15	40	86	150	400
Feb.	1	40	86	150	400
	15	43	104	170	420
Mar.	1	46	122	190	435
	15	50	143	218	460
Apr.	1	54	165	250	490
	15	52	143	218	460
May	1	49	124	192	440
	15	47	104	170	420
Jun.	1	45	83	148	395
	15	43	69	130	385
Jul.	1	41.5	57	115	375
	15	39.5	57	115	375
Aug.	1	38	57	115	375
	15	38	57	115	375
Sept.	1	38	57	115	375
	15	38	63	123	380
Oct.	1	38	70	130	385
	15	39	77	140	390
Nov.	1	40	86	150	400
	15	40	86	150	400
Dec.	1	40	86	150	400
	15	40	86	150	400

(3) Base Flow hydrographs, Figure II-1 in the document entitled "water resources management program in the Little Spokane River Basin" dated August, 1975 shall be used for definition of base flows on those days not specifically identified in WAC 173-555-030(2).

(4) All rights hereafter established shall be expressly subject to the base flows established in sections WAC 173-555-030 (1) through (3). [Order DE 75-24, § 173-555-030, filed 1/6/76.]

WAC 173-555-040 Future allocations—Reservation of surface water for beneficial uses. (1) The department determines that these are surface waters available for appropriation from the stream management units specified in the amount specified in cubic feet per second (cfs) during the time specified as follows:

(a) Surface water available from the east branch of the Little Spokane River, confluence with Dry Creek to headwaters, based on measurement at control station number 12-4270.00 at Elk are:

Month	May	June	July	Aug.	Sept.	Oct.
Date	1 15	1 15	1 15	1 15	1 15	1 15
Amount	26 22	17 14	11 9	5 5	5 5	7 7

(b) Surface water available from the Little Spokane River from confluence with Little Creek at Dartford to Eloika Lake outlet, and to confluence with Dry Creek based on measurement at control station number 12-4310 at Dartford are:

Month	May	June	July	Aug.	Sept.	Oct.
Date	1 15	1 15	1 15	1 15	1 15	1 15
Amount	340 236	152 103	62 34	11 11	11 11	20 20

(c) Available surface waters for those days not specified in (a) and (b) shall be defined from Figures II-3 and II-4 in the document entitled "water resources management program in the Little Spokane River basin" dated August, 1975.

(2) The amounts of waters referred to in WAC 173-555-040(1) above are allocated for beneficial uses in the future as follows:

(a) Three cubic feet per second from the amount available in the east branch of the Little Spokane River referred to in WAC 173-555-040 (1)(a) above and five cubic feet per second from the amount available in the Little Spokane River, besides east branch, referred to in WAC 173-555-040 (1)(b) are allocated to future domestic, stockwatering and noncommercial agricultural irrigation purposes within the stream reaches specified therein throughout the year.

(b) The remainder of the amount referred to in WAC 173-555-040 (1)(a) and (b) besides the amount specified in WAC 173-555-040 (2)(a) are allocated to consumptive and nonconsumptive uses not specified in WAC 173-555-040 (2)(a). These are further described in the figures appended hereto. [Order DE 75-24, § 173-555-040, filed 1/6/76.]

WAC 173-555-050 Priority of future water rights during times of water shortage. (1) As between rights established in the future pertaining to waters allocated

in WAC 173-555-040 (2)(a) and (b), all rights established in (a) shall be superior to those pertaining to (b) regardless of the date of the priority of right.

(2) As between rights established in the future within a single use category allocation of WAC 173-555-040, the date of priority shall control with an earlier dated right being superior to those rights with later dates. [Order DE 75-24, § 173-555-050, filed 1/6/76.]

WAC 173-555-060 Streams and lakes closed to further consumptive appropriations. The department, having determined there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the following streams to further consumptive appropriation except for domestic and normal stockwatering purposes excluding feedlot operation:

SURFACE WATER CLOSURES

Stream* Name	Affected Reach	Date of Closure	Period of Closure
Dry Creek	Mouth to headwaters	5-26-1952	1 June-31 Oct.
Otter Creek	Mouth to headwaters	2-23-1971	"
Bear Creek	Mouth to headwaters	4-13-1953	"
Deer Creek	Mouth to headwaters	2-29-1968	"
Dragoon Creek	Mouth to headwaters	7-02-1951	"
Deep Creek	Mouth to headwaters	6-14-1961	"
Deadman Creek ^{1/}	Mouth to headwaters	11-28-1961	"
Little Creek	Mouth to headwaters	4-13-1953	"
W. Branch Little Spokane River	Outlet of Eloika Lake to headwaters	Date of adoption	"
All natural lakes in the basin			"

* Includes all tributaries in the contributing drainage area unless specifically excluded.

^{1/} An unnamed tributary flowing through Sec. 20, T26N., R.44E. is exempted from closure.

[Order DE 75-24, § 173-555-060, filed 1/6/76.]

WAC 173-555-070 Effect on prior rights. Nothing in this chapter shall be construed to lessen, enlarge or modify the existing rights acquired by appropriation or otherwise. [Order DE 75-24, § 173-555-070, filed 1/6/76.]

WAC 173-555-080 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory

orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600. [Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-555-080, filed 6/9/88.]

WAC 173-555-090 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW. [Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-555-090, filed 6/9/88.]

WAC 173-555-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions. [Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-555-100, filed 6/9/88.]



STATE OF WASHINGTON
ENVIRONMENTAL HEARINGS OFFICE

4224 - 6th Avenue SE, Bldg. 2, Rowe Six
P.O. Box 40903, Lacey, WA 98504-0903

April 18, 1997

Mark J. Conlin
Attorney at Law
911 Paulsen Building
West 421 Riverside Avenue, Suite 911
Spokane WA 99201

Joan Marchioro
Assistant Attorney General
Department of Ecology
PO Box 40117
Olympia WA 98504

Re: PCHB NO. 96-136
DAVID R. SEVERN v. ECOLOGY

Dear Counsel:

Enclosed is the Stipulation and Agreed Order of Dismissal in this matter.

The parties' efforts are appreciated.

Very truly yours,

William A. Harrison
Hon. William A. Harrison
Administrative Appeals Judge

WAH/jg/severn
enc.

cc: Linda Pilkey-Jarvis - 7600
Rachael Paschal

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid to the attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED 4-18-97, at Lacey, WA.

K. Forbes

BY _____ DATE _____

SHEET ____ OF ____

CHKD.BY _____ DATE _____

PROGRAM/SECTION _____ COUNTY _____

PROJECT _____

SUBJECT _____

CALCULATION PAD

10/15/01 FIELD NOTES -

MET W/ DAVID SEVERN 4:00

POND - (COLLAPSED WELL SITE) AS INDICATED -
FLOWING - DISCHARGE TO CREEK - DIRECT TO
LITTLE SPokane -
FISH IN POND -

PUMP - 7 1/2 HP - 5" DIA PUMP - 3" INTAKE -
3" MAINLINE INSTALLED E & W & N/S -

PROPOSES - HAND LINES TO IRRIGATE - WILL
NEED TO INSTALL ADDITIONAL MAINLINES
FOR BACK FIELDS -

- PROPOSAL - TO USE SAME 7 1/2 HP PUMP

$$Q_i = \frac{7\frac{1}{2} \times .75 \times 3960}{(45 \times 2.31) + 10'} = \frac{22275}{113.95} = 195 \text{ GPM}$$

LOW Q_i = 195 GPM - WOULD REQUIRE LARGER
PUMP TO ACHIEVE 450 GPM (1 CFS)

CROP - PASTURE GRASS/ALFALFA -

- HORSES - 10 / COWS - UP TO 50

SEPARATE WELL - FOR HOUSE & YARD -

$$ALF. 24\frac{42}{100} \times 75\% = 29\frac{5}{100} \text{ A/C}$$

BY _____ DATE _____

SHEET ____ OF ____

CHKD.BY _____ DATE _____

PROGRAM/SECTION _____ COUNTY _____

PROJECT _____

SUBJECT _____

CALCULATION PAD

DAVE SEVERN - 10/15 - 979-5852 -
1-888-442-8904

- 4:00 →

HAWTHORN → WAKIKI - NORTH - 1/4 mile - WEST →
50 yds - RIGHT INTO FAIRWOOD - 2 Rock P. lms
1/4 mile - 90° - EAST - GO STRAIGHT
END OF CULDESAC - GATE -
- 006 →

1 mile -
DOWN HILE - 180° - WEST -
STAY ON PAULD ROAD -
→
Blue house -

Southeast quarter of
Section 1

LOT 1 38.96 AC.

Southwest quarter of
Section 6

APR 13 1994

(7)

(8)

(48)

LOT 1 38.75 AC.

Northeast quarter of
Section 12

(66)

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3" INTAKE

5" DIAMETER - DEERLESS 620A $\frac{ST46}{BF}$
7 1/2 HP

HANDLINES OFF MAIN LINES

- PASTURE / GRASS

HORSES / COWS 50

- 10 /

WELL FOR HOUSE



BY _____ DATE _____

SHEET ____ OF ____

CHKD.BY _____ DATE _____

PROGRAM/SECTION _____ COUNTY _____

PROJECT _____

SUBJECT _____

CALCULATION PAD

DAVID SEVERN - CALLED 53-29684
ANSWER - YES
- 466 - 4522 -

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

TEEE 2556 6000 0797 0002

S3-29684

Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$

Postmark Here
 KAYerbich
 9-13-2001

Sent To
 MR DAVID SEVERN
 Street, Apt. No., or PO Box No.
 12411 N VISTAWOOD CT
 City, State, ZIP+4
 SPOKANE WA 99218

PS Form 3800, May 2000

See Reverse for Instructions

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR DAVID SEVERN
 12411 N VISTAWOOD CT
 SPOKANE WA 99218

4a. Article Number
 70001670000995526331

4b. Service Type

☐ Registered ☒ Certified

☐ Express Mail ☐ Insured

☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
 9-17-01

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
4601 N. Monroe Street • Spokane, Washington 99205-1295 • (509) 456-2926

September 13, 2001

CERTIFIED MAIL (7000 1670 0009 9552 6331)

COPY

Mr. David Severn
12411 North Vistawood CT
Spokane, Washington 99218

RE: Water Right Application No. S3-29684

First of all, I must apologize for the length of time in which this file has been dormant. We were looking through the files in relation to the Little Spokane River and this file came to light.

In 1996 we issue a denial of the pending application. An appeal of the decision, PCHB 96-136 was submitted. A Stipulated and Agreed Order was issued as a result of the appeal. The Stipulation required us to issue an amended Report of Examination on the subject application. To date, this has not happened.

We wish to comply with the Stipulated and Agreed Order. The original permit writer has retired, and no longer works for us. I would first like to ask if you are still interested in pursuing this application, and if so I would like to conduct another field examination and discuss the application with you.

Please contact me at your earliest convenience as to how you wish to proceed. If you have any questions or concerns, please feel free to contact me at (509) 456-2861.

Sincerely

Kevin Brown
Water Resources Program
Eastern Regional Office

KB:kay

w:\Brown\2001\S3-29684 David Severn 9-13-2001.doc

I certify that I mailed this letter or an identical copy thereof, postage prepaid, to the above addressee(s) this 13th day of September, 2001.

Water Resources Program, Office Assistant, Katherine A. Yerbich

BACKGROUND

An application to appropriate public surface water was submitted by David R. Severn to the Department of Ecology on April 13, 1994, for the amount of 1 cubic foot per second for the seasonal irrigation of 43 acres and continuous stockwater supply. The application was accepted and assigned Surface Water Application No. S3-29684. The proposed point of diversion is within the NW¼NW¼ of Sec. 7, T. 26 N., R. 43 E.W.M. in Spokane County, Washington.

INVESTIGATION

A field examination was conducted on August 24, 1995, by James M. Lyerla. The applicant's project is located east of the Spokane Country Club and adjacent to the Little Spokane River. The applicant presently has a home and associated outbuildings on the property. It appeared that the irrigation system for this proposed project was being installed on the date of the examination. However, there was no pump at the applied-for point of diversion. Domestic water is supplied to the residence through a private water system.

The source of surface water that the applicant has applied for is actually being produced from a well that penetrated the local clay aquitard and blew out due to improper casing. Many unsuccessful attempts were made to seal this flowing well. This well was originally drilled as a stockwater well and was exempt from the permitting requirements of RCW 90.44.050. When the well casing failed, a large pond was formed as the surrounding land surface was eroded away by the artesian flow. The surface water exits the first pond, following a natural channel to a second larger pond, then ultimately discharges to the Little Spokane River. The applicant has applied for stockwater supply and the irrigation of 43 acres from this unnamed spring/pond formed by the failed well.

On the date of the field examination, the spring flow resulting from this flowing well was in excess of 1 cubic foot per second. The flow of the well was in excess of 4 cubic feet per second when it was first constructed.

SETTLEMENT OPTIONS

The Department is proposing to issue a permit subject to the following conditions:

Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities.

An approved measuring device shall be installed and maintained in accordance with RCW 90.03.360 and /or WAC 508-64-020 through WAC 508-64-040. The Applicant will record the quantity of water diverted on a monthly basis and submit the data to Ecology on an annual basis (no later than February 15th of each year).

28 1/2 K/in
37 1/2 = 787.5 ft
313

The applicant is required to bypass all of flow from the pond that is not diverted through this water right and allow it to discharge into the Little Spokane River.

The applicant will grant Ecology personnel permission to measure the flow of the surface water at or near the site of the original well location on an as-needed basis.

"The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified."

If water source and/or water transmission facilities are not wholly located upon the land owned by the applicant, issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

"This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Native Americans under treaty or otherwise."

"A certificate of water right will not be issued until a final examination is made."

"The water quantities and uses recommended and/or the number of acres to be irrigated may be reduced at the time of issuance of a final water right commensurate with the capacity of the installed system and the uses and/or the number of acres actually irrigated."

"Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations."

The construction of the facilities for the appropriation of water under the application may require removal of material from or adjacent to a stream channel or watercourse. A Hydraulic Approval may be obtained from the Department of Fish and Wildlife prior to commencing work.

"No dam shall be constructed in connection with this diversion."

"This authorization to use public waters of the State is classified as a Family Farm Permit in accordance, with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 2,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 2,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land

being irrigated under this authorization must continue to conform to the definition of a family farm."



BY _____ DATE _____

SHEET ____ OF ____

CHKD. BY _____ DATE _____

PROGRAM/SECTION _____ COUNTY _____

PROJECT _____

SUBJECT _____

CALCULATION PAD

Q_i - STIPULATED TO 10 CFS

Q_a - WIG - 28² AC/IN - TURF $\div 75 = 376''/\text{AC}$
 $\Rightarrow 3^{13} \text{ AF/AC}$

TYPICAL 0.03 CFS/AC - 43 X .02 = 0.86

TYPICAL SEASON 4/1 TO 10/31

- IRRIGABLE -

STIPULATED TO ALL 43

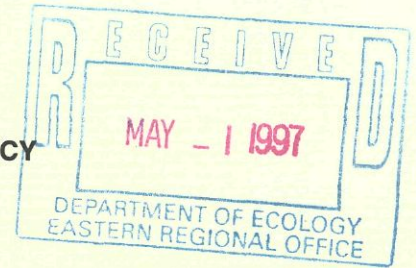
NW 1/4 NW 1/4 SEC 7 T26N R43E

550' SOUTH & 500' EAST OF NW CORNER
OF SEC 7



CENTER FOR ENVIRONMENTAL LAW & POLICY

**1165 Eastlake East, Suite 400
Seattle, WA 98109**



Prof. Ralph W. Johnson, President

April 28, 1997

Rachael Paschal, Director

Mary Jane Willey
Department of Ecology
Eastern Regional Office
4601 North Monroe, Suite 202
Spokane, WA 99205-1295

Dear Ms. Willey,

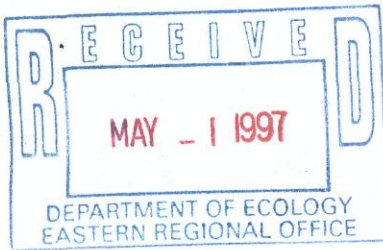
Pursuant to the settlement of David R. Severn v. Ecology, PCHB No. 96-136, Ecology was directed to issue an amended Report of Exam for Mr. Severn (application No. S3-29684). Please send us a copy of this amended ROE as soon as it is available.

Thank you for your assistance.

Sincerely yours,

Michele Lechak

cc: Jim Lyerla



CENTER FOR ENVIRONMENTAL LAW & POLICY

**1165 Eastlake East, Suite 400
Seattle, WA 98109**

Prof. Ralph W. Johnson, President

April 28, 1997

Rachael Paschal, Director

Mary Jane Willey
Department of Ecology
Eastern Regional Office
4601 North Monroe, Suite 202
Spokane, WA 99205-1295

Dear Ms. Willey,

Pursuant to the settlement of David R. Severn v. Ecology, PCHB No. 96-136, Ecology was directed to issue an amended Report of Exam for Mr. Severn (application No. S3-29684). Please send us a copy of this amended ROE as soon as it is available.

Thank you for your assistance.

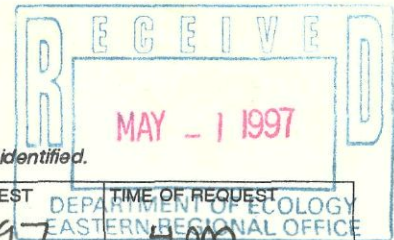
Sincerely yours,

Michele Lechak

cc: Jim Lyerla



REQUEST FOR PUBLIC RECORD



REQUESTER: Please complete form and submit to "Public Records Officer" of the state agency identified.

NAME OF STATE AGENCY TO DEPARTMENT OF ECOLOGY		DATE OF REQUEST 4/28/97	TIME OF REQUEST 4 PM
PUBLIC RECORDS OR INFORMATION REQUESTED		REQUESTED BY	
Amended Report of Exam for David R. Severn		Center for Environmental Law & Policy	
(Application No. 53-21684) pursuant to settlement		1165 Eastlake, Suite 400	
of PCHB No. 96-136 appeal.		Seattle, WA 98109	

AGENCY PUBLIC RECORDS OFFICER		ACKNOWLEDGEMENT OF RECEIPT	
NO. OF COPIES	AMOUNT RECEIVED	DATE OF RECEIPT	TIME OF RECEIPT
	\$		
PUBLIC RECORDS OFFICER		RECIPIENT'S SIGNATURE	

REQUESTER READ AND SIGN

I understand that if a list of individuals is provided me by the Department of Ecology, it will neither be used to promote the election of an official or promote or oppose a ballot proposition as prohibited by RCW 42.17.130 nor for commercial purposes or give or provide access to material to others for commercial purposes as prohibited by RCW 42.17.260(7).

REASON IF AGENCY IS UNABLE TO

and that I will be charged _____ cents per standard letter size copies I desire and size publications are available at cost.

REQUESTER'S SIGNATURE
Chel Lockhart

Ecology is an Equal Opportunity Agency. If you need contact the Public Disclosure Officer.
ECY 010-37(a) (Rev. 3/94)

Karen -

Please hold

and fill this request

when you receive

Amended - ROE -

I called her and

said we would file

this request separately

Thanks

me

ERO

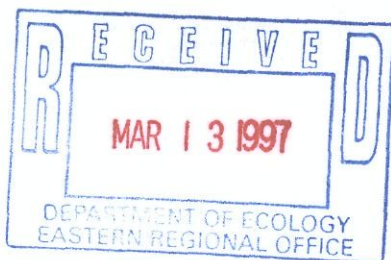


53-296847

STATE OF WASHINGTON

ENVIRONMENTAL HEARINGS OFFICE

4224 - 6th Avenue SE, Bldg. 2, Rowe Six
P.O. Box 40903, Lacey, WA 98504-0903



March 7, 1997

Mark J. Conlin
Attorney at Law
911 Paulsen Building
West 421 Riverside Avenue, Suite 911
Spokane WA 99201

Joan Marchioro
Assistant Attorney General
Department of Ecology
PO Box 40117
Olympia WA 98504

Re: PCHB NO. 96-136
DAVID R. SEVERN v. ECOLOGY

Dear Counsel:

Having been advised of settlement in this matter, and by agreement of counsel, the hearing in the above matter is cancelled. The parties should endeavor to submit a signed stipulation to the Board on or before **March 20, 1997**. If a stipulation is not received by this date the hearing will be reset at the earliest possible date.

The parties' efforts are appreciated.

Very truly yours,

Hon. William A. Harrison
Administrative Appeals Judge

WAH/jg/severn

cc: Linda Pilkey-Jarvis - 7600
Rachael Paschal

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid to the attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED 3-10-97, at Lacey, WA.

Christine O. Gregoire
ATTORNEY GENERAL OF WASHINGTON

Ecology Division
P. O. Box 40117
Olympia, WA 98504-0117

TELECOPY TRANSMITTAL

Date February 19, 1997

This transmission consists of 4 page(s) (including cover).

RE: Severn v. Ecology, PCHB No. 96-136

**TO: BRUCE HOWARD
JOHN COVERT
Eastern Regional Office**

**FR: JOAN MARCHIORO
Assistant Attorney General
FAX # (360) 438-7743**

PHONE # (360) 459-6041

COMMENTS:

Original or hard copy to follow if this box is checked. []

The information contained in this transmission is attorney privileged and confidential. It is intended only for the use of the individual or entity named above. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU ARE NOT AUTHORIZED TO REVIEW THE FOLLOWING PAGES AND THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. If you have received this communication in error, please notify us immediately by telephone collect and return the original message to us at the above address via the U.S. Postal Service. We will reimburse you for postage. Thank you.

If any of these pages are not legible or you do not receive all pages, please contact Carol Carney as soon as possible at (360) 459-6065.

MARK J. CONLIN
CONLIN, MALONEY & MILLER
Attorneys at Law
Paulsen Professional Bldg
421 West Riverside Avenue, Suite 911
Spokane, Washington 99201
Phone (509) 624-3020
Fax (509) 623-1196

TO: Attorney General Office
Ecology Division

ATTENTION: Ms. Joan Marchioro

FAX NO: (360) 438-7743

FROM: Mark Conlin

RE: Severn vs. Department of Ecology
PCHB No.: 96-136

FAX NO.: (509) 623-1196

DATE: February 19, 1997 **TIME:**

NUMBER OF PAGES INCLUDING THIS PAGE: 3

If there are any problems with this transmission, contact the sender immediately at (509) 624-3020.

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication in error, please immediately notify us by telephone, and return in original message to us at the above address VIA the U.S. Postal Service. Thank you.

CONLIN, MALONEY & MILLER

ATTORNEYS AT LAW

421 W. RIVERSIDE AVE., SUITE 911

SPOKANE, WASHINGTON 99201

MARK J. CONLIN
THOMAS B. MALONEY (died)
THOMAS J. MILLERTELEPHONE
(509) 624-3020
FACSIMILE
(509) 623-1196
NOT FOR SERVICE OR NOTICE

February 19, 1997

Ms. Joan Marchioro
Assistant Attorney General
Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117RE: Severn vs. Department of Ecology
PCHB No.: 96-136

Dear Ms. Marchioro:

I have had the opportunity to review your February 7, 1997 letter with my client. There are several issues that need to be addressed, but I am certain they will not effect the overall intent of the parties to resolve this matter.

Mr. Severn will install a mechanical metering devise. Those readings will be logged once a month and on an annual basis the flowage amounts will be submitted to the Department of Ecology. Please advise the undersigned if this is not acceptable. It should also be noted that the water from the pond would flow through the "No Name Creek" and then into the Little Spokane River. This is to clarify paragraph three of your February 7th letter.

In regard to paragraph 4, Mr. Severn is concerned about personnel from the Department of Ecology coming on to his property on an "as needed basis". Mr. Severn had a very unfortunate situation with an officer from the Department of Fish and Wildlife who came onto his property with a loaded weapon and made very threatening remarks to Mr. Severn and his workers. We have no objection, if the Department would make the request through Mr. Severn or his authorized agent, for the purpose of measuring the surface water at a time that was convenient for all parties.

mod P.H.W. #,

February 19, 1997

re: Severn vs. Department of Ecology
PCHB No.: 96-136

Page 2

We would respectfully request that the "Certificate of Water Right" be issued within a reasonable time after the final examination. If such examination and issuance of certificate would take more than thirty (30) days after notification to the Department, please advise. Mr. Severn has no objection to any measuring being conducted at this time.

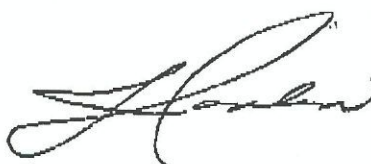
Mr. Severn, over the last few years, has made improvements on the property approved previously by the Army Corps of Engineers, The Department of Fish and Wildlife and The Department of Ecology. We will want to make it clear that all those improvements are not to be changed and all improvements previously approved by the above mentioned agencies will remain "as is."

Paragraph number 9 is vague and needs to be addressed in more concrete terms. Mr. Severn has applied for the 43 acres and it is anticipated that the installed system will be sufficient to supply one (1) C.F.S. If there is a discrepancy between this system and its capacity to meet the use requested, then Mr. Severn would preserve the right to modify the system. There is a concern, by Mr. Severn, that the purpose to irrigate the 43 acres should not be altered by the Department of Ecology on a unilateral basis. Incidentally, Mr. Severn has published his application for the permit and no objections were received. I believe that should be sufficient notice. If not, please advise.

Please contact me after you have had the opportunity to review this letter. I believe that with the resolution of these questions, we may be able to settle this matter. Your cooperation and assistance is appreciated.

Very truly yours,

CONLIN, MALONEY & MILLER



Mark J. Conlin

MICM

cc

Mr. Severn

He really
wants
us to
do the
work

What
does
this
mean?

If the
doesn't
use all
of his
1 cfs, at
this point

THAT'S ALL THE GOOD
HE CAN PRESERVE THE
RIGHT TO MODIFY

DONT TURN IN PA UNTIL
YOURS DONE!



Christine O. Gregoire

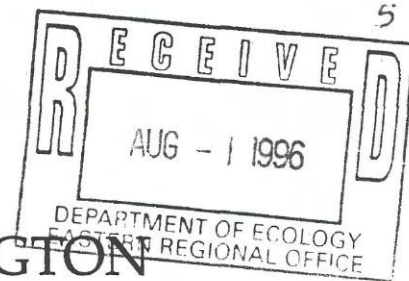
ATTORNEY GENERAL OF WASHINGTON

Ecology Division

629 Woodland Square Loop SE 4th Floor • Lacey WA 98503

Mailing Address: PO Box 40117 • Olympia WA 98504-0117

July 29, 1996



Mr. Robert D. Dellwo
Dellwo, Roberts & Scanlon
W. 1124 Riverside, #310
Spokane, WA 99201-1106

Re: Consolidated Little Spokane Water Permit Appeals Before
The Pollution Control Hearings Board, PCHB Nos. 96-126,
96-136, 96-145, 96-157, 96-160, 96-176

Dear Bob:

I am responding to your letter of July 23, 1996 addressed to me and to Mary Sue Wilson in regard to the Sanborn appeal and the Board's order on summary judgment.

On May 3, 1996, the PCHB issued a prehearing order to all parties in water right permit appeals then pending. In that order, entitled "Consolidated Hearing on Statewide Issues," the Board agreed to the request by some appellants to accept briefs and argument on eleven threshold legal issues which the Board determined applied to all of the appeals. Pursuant to the order, parties who chose to could submit briefs on the listed issues.

Your client became a party on June 4, 1996 when Judge Harrison issued an order authorizing intervention in PCHB No. 96-160. Since you became a party entitled to notice after the prehearing order issued, it is not surprising that you did not receive any notice of the summary judgment proceedings which culminated in the order of July 16, 1996. The order determines purely legal issues which shall govern the evidentiary hearing to be held during the next nine months and does apply to the Sanborn appeal.

You state that you disagree with two findings of the Board. While it is not for me to explain the conclusions of the Board, perhaps I can point to some relevant authority. First, for the "de novo review" standard which the Board uses, see RCW 43.21B.110 and .170; WAC 371-08-183. A party challenging an Ecology order on a water right has the burden of showing by a preponderance of evidence that the decision is illegal or in error. Ecology must rebut the evidence put on by the appellant. It is correct to say that Mr. Sanborn has the burden of proving

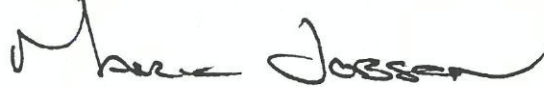
ATTORNEY GENERAL OF WASHINGTON

Mr. Robert D. Dellwo
July 29, 1996
Page 2

that the order on his application was illegal or in error. This is consistent with the Board's rule that it reviews the decision de novo.

Second, Ecology does not transmit any record to the Board. The board is not engaging in a "record review" as would a Superior Court under the RCW 34.05.510. The parties are responsible for assembling the evidence each believes is necessary to prove its case. If you want to present evidence to the Board in the Sanborn case, it is incumbent on you to obtain that evidence and have it admitted through a witness at the hearing. See WAC 371-08-180 and -186.

Yours,



Mark C. Jobson
Assistant Attorney General
(360) 459-6156
(360) 438-7743 Fax

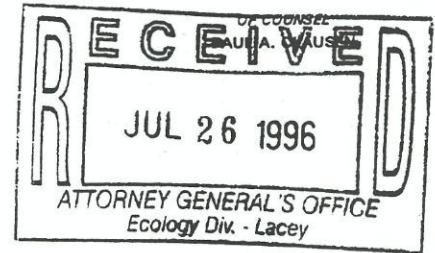
MCJ:dmb

cc: Bruce Howard, Ecology Eastern Regional Office
Bob Sanborn, appellant pro se

ROBERT D. DELLWO
ROBERT J. ROBERTS (1962-1993)
ROBERT C. SCANLON

LAW OFFICES
DELLWO, ROBERTS & SCANLON

A PROFESSIONAL SERVICE CORPORATION
W. 1124 RIVERSIDE, #310
SPOKANE, WASHINGTON 99201-1106
TELEPHONE (509) 624-4291
FAX (509) 456-6810



July 23, 1996

Mr. Mark Jobson
Assistant Attorney General
Department of Ecology
P.O. Box 40117
Olympia, WA 98504-0117

Ms. Mary Sue Wilson
Office of Attorney General
1629 Woodland Square Loop, SE
Olympia, WA 98504-0117

Re: James and Patricia Sebero; **David Severn**;
David J. Turner; Lawrence R. Kiewert;
Robert D. Sanborn; Ervin J. Stritzke v.
State of Washington, Department of Ecology
PCHB Nos. 96-126, 96-136, 96-145, 96-157,
96-160, 96-176

Dear Mr. Jobson and Ms. Wilson:

I have just received the Order on Summary Judgment of the PCHB, dated July 16, 1996. I was surprised to receive the order which lists captioned Sanborn Appeal. My files and memory are blank on having received any notice of the proceedings which culminated in the Order.

While not naming the Sanborn Appeal (96-160) in the body of the Order, many of the findings certainly relate to that appeal in that the reason Sanborn was denied was because of the cumulative effect his application and others would have on the Little Spokane River with its judicially established minimum flow.

Would you please advise me of the effect of said Order on the pending appeal process before the PCHB in the Sanborn appeal and the effect on the several others.

I find the Order hard to understand and follow and either do not understand or disagree with some of its findings. There follows some of the matters I disagree with or do not understand.

1. PCHB "de novo" Review over Ecology Decisions

The Order, especially on page 30, et seq., sets this out. Such a finding is contrary to my own long held understanding that decisions, regulations and findings by an Administrative Board are presumptively correct and the burden of showing them erroneous or unjustified is on the person opposing them.

An example is my own case before the PCHB No. 93-225 - Lloyd Roach v. DOE. The local Department of Ecology had denied Roach's application for a small (4 GPM) water right on Marshall Creek. He appealed. I was advised by you Mark and by the Board that the Decision was presumptively correct and that the "burden of proof" before the PCHB was on me and my client. Cited are RCW 75.020, et. seq., 90.44.060, 90.03.290, 90.54.020 and others.

To say that all decisions of the DOE pursuant to these statutes are subject to "de novo" review by the PCHB seems patently erroneous. Perhaps some of them are but not all - certainly not decisions and policies established several years ago often pertaining to entire basins.

My argument is that the DOE's denial of the Robert Sanborn application is presumptively correct (as in the case of Roach) and that the burden is on him to show that it was wrong.

2. DOE Record Should be Transmitted to PCHB

Much to my surprise, it seemed to be ruled that the regional DOE in the captioned appeals would not transmit its hearing record to the PCHB. I would think that in any appeal from an administrative decision, the administrative board would be required to transmit not only its "decision" but its hearing record. That apparently is not being done in the Sanborn Appeal (96-160) or in the others. Instead we respondents and appellants must go to the Offices of the DOE and review its files and mark for copies any of them we think should be transmitted and then "we" must transmit those copies instead of the DOE doing it in total.

I consider that erroneous.

I could make many other comments but will appreciate yours on the foregoing.

Sincerely,



Robert D. Dellwo

RDD:mn



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

629 Woodland Square Loop SE 4th Floor • Lacey WA 98503

Mailing Address: PO Box 40117 • Olympia WA 98504-0117

June 20, 1996

Mark J. Conlin
Attorney at Law
911 Paulsen Building
West 421 Riverside Ave., Suite 911
Spokane, WA 99201

Re: Sebero, et al. v. Dept. of Ecology
PCHB Nos. 96-126, 136, 145, 157, 160, 176
Your Client: David Severn

Dear Mr. Conlin:

During our prehearing conference on May 24, 1996 we scheduled a meeting with you for Friday, July 12, 1996 to discuss settlement options. The meeting will be held at Ecology's Eastern Regional Office located at N. 4601 Monroe, Suite 100, Spokane, WA, (509)456-2926. Our meeting with you is scheduled for 1:00 p.m.

In order to make our meeting as productive as possible we would appreciate receiving in advance of the meeting any documents or information you believe establishes your right to withdraw the water you requested in your application. Please provide any such information by July 3, 1996.

Thank you for your cooperation. We look forward to seeing you on July 12. Please do not hesitate to call if you have any questions.

Very truly yours,

MARY SUE WILSON
Assistant Attorney General
(360) 459-6057

MSW:llc

cc: Bruce Howard



STATE OF WASHINGTON
ENVIRONMENTAL HEARINGS OFFICE

4224 - 6th Avenue SE, Bldg. 2, Rowe Six
P.O. Box 40903, Lacey, WA 98504-0903

March 1, 1996

Mark J. Conlin
CONLIN MALONEY & MILLER
911 Paulsen Building
West 421 Riverside Ave Suite 911
Spokane WA 99201

Mark C. Jobson
Assistant Attorney General
Department of Ecology
PO Box 40117
Olympia, WA 98504-0117

RE: PCHB NO. 96-136
DAVID SEVERN v. ECOLOGY S3-29684

Dear Counsel:

Notice of the above appeal was filed with the Pollution Control Hearings Board on February 26, 1996. Your appeal is one of three currently pending before the Board that arise out of water right applications in the Little Spokane and Pend Oreille watersheds. Attached is a list of the appellants in those watersheds.

A pre-hearing conference is scheduled for Friday, May 24, 1996, at 1:00 p.m. in Room 126 of the U.S. Post Office Building, W. 904 Riverside in Spokane, Washington.

At the conference, be prepared to discuss settlement, to present your proposed legal issues, witnesses, and exhibits lists, and to schedule pre-hearing events, such as motion/discovery deadlines, etc. (The Final list of witnesses and exhibits will be filed later at a date to be determined at the Pre-Hearing Conference.) Following the conference, a Pre-Hearing Order will issue which will govern subsequent proceedings.

Enclosed is an informational brochure about the Pollution Control Hearings Board, and the procedural rules of the Board, 371-08 WAC.

If you have questions, please do not hesitate to call.

Sincerely,

Hon. William A. Harrison
Administrative Appeals Judge, Presiding

WAH/jg/severn

cc: Linda Pilkey-Jarvis, Water Resource, Ecology
Encs.

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid to the attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED 3-1-96, at Lacey, WA.



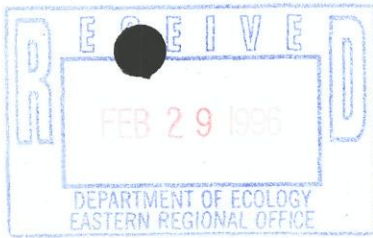
LITTLE SPOKANE WATERSHED (3/1/96)

James & Patricia Sebero
E. 6302 Grouse Road
Chatteroy WA 99003
(PCHB No. 96-126)

Mark J. Conlin
Attorney for David Severn)
911 Paulsen Building
West 421 Riverside Avenue, Suite 911
Spokane WA 99201
(PCHB No. 96-136)

PEND OREILLE WATERSHED (3/1/96)

William H. Egolf
Washaho Ranch
Route 5 Bear Paw Road
Priest River ID 93856
(PCHB No. 96-047)



Bruce
Rcvd. 4/26/96
JO-J

DEPARTMENT OF ECOLOGY, STATE OF WASHINGTON

In the matter of application) NOTICE OF APPEAL AND
) REQUEST FOR HEARING
)
No. S3-29684)

COMES NOW the Respondent, by and through his counsel, and files this Notice of Appeal from the Order signed February 8, 1996 by the Department of Ecology.


That the Department of Ecology has used a "standard" report for denying all applications recently submitted for approval. That the flow from the source of water that is the basis of this petition was based on the penetration of the aquifer approximately eight years ago.

Significant homes are now on city water systems and Respondent's request to pump water from the punctured aquifer has not shown to effect nor would it be detrimental to any senior water right.

The findings were incorrect, as there was no irrigation system installed at the date of examination. The petitioner wishes to maintain a six inch pipe to his sprinkler system for approximately 43 acres of farm land. Portions of this will be used to feed the cattle and horses, owned by Mr. Severn.

The Respondent respectfully requests a hearing in this matter.

Respectfully Submitted this 23rd day of February, 1996.


MARK J. CONLIN, WSBA 9020
ATTORNEY FOR DAVID R. SEVERN
911 PAULSEN BUILDING
WEST 421 RIVERSIDE AVENUE, SUITE 911
SPOKANE, WA 99201
(509) 624-3020

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

DENIAL

REPORT OF EXAMINATION

TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON



Surface Water

(Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)



Ground Water

(Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE April 13, 1994	APPLICATION NUMBER S3-29684	PERMIT NUMBER	CERTIFICATE NUMBER
---------------------------------	--------------------------------	---------------	--------------------

NAME

DAVID R. SEVERN

ADDRESS (STREET)

12411 North Vistawood Ct.

(CITY)

Spokane

(STATE)

Washington

(ZIP CODE)

99218

APPLICATION DENIED - PERMIT REFUSED

PUBLIC WATERS TO BE APPROPRIATED

SOURCE

Unnamed Spring

TRIBUTARY OF (IF SURFACE WATERS)

Little Spokane River

MAXIMUM CUBIC FEET PER SECOND

MAXIMUM GALLONS PER MINUTE

MAXIMUM ACRE-FEET PER YEAR

QUANTITY, TYPE OF USE, PERIOD OF USE

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION-WITHDRAWAL

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) NW1/4NW1/4	SECTION 7	TOWNSHIP N. 26	RANGE, (E. OR W.) W.M. 43 E.	W.R.L.A. 55	COUNTY Spokane
---	--------------	-------------------	---------------------------------	----------------	-------------------

RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
-----	-------	------------------------------------

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

DESCRIPTION OF PROPOSED WORKS

N/A

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:

N/A

COMPLETE PROJECT BY THIS DATE:

N/A

WATER PUT TO FULL USE BY THIS DATE:

N/A

REPORT

BACKGROUND

An application to appropriate public surface water was submitted by David R. Severn to the Department of Ecology on April 13, 1994, in the amount of 1 cubic foot per second for the seasonal irrigation of 43 acres and continuous stockwater supply. The application was accepted and assigned Surface Water Application No. S3-29684. The proposed point of diversion will be located within the NW¼NW¼ of Sec. 7, T. 26 N., R. 43 E.W.M. in Spokane County, Washington.

A notice of application was duly published in accordance with RCW 90.03.280; no protests or objections were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

INVESTIGATION

A field examination was conducted on August 24, 1995, by James M. Lyerla. The applicant's project is located east of the Spokane Country Club and adjacent to the Little Spokane River. The applicant presently has a home and associated outbuildings constructed on the property. It appeared that the irrigation system for this proposed project was being installed on the date of the examination. However, there was no pump at the applied-for point of diversion. Domestic water is supplied to the residence through a private water system.

The source of surface water that the applicant has applied for is actually being produced from a well that penetrated the local clay aquitard and blew out due to improper casing. Many unsuccessful attempts were made to seal this flowing well. This well was originally drilled as a stockwater well and was exempt from the permitting requirements of RCW 90.44.

On the date of the field examination, the spring flow resulting from this flowing well was in excess of 1 cubic foot per second. The flow of the well was in excess of 4 cubic feet per second when it was first constructed and appeared to be somewhat less on the date of this examination.

When the well casing failed, a large pond was formed as the surrounding land surface was eroded away by the artesian flow. The surface water then enters a natural channel and flows to a second larger pond, then ultimately discharges to the Little Spokane River. The applicant has applied for stockwater supply and the irrigation of 43 acres from this unnamed spring/pond formed by the failed well.

HYDRAULIC CONTINUITY WITH THE LITTLE SPOKANE RIVER BASIN

The Department is in the process of making decisions on approximately 40 water right applications in the Little Spokane River Watershed. As a part of every water right decision, the Department must answer four statutory (RCWs 90.03.290 and 90.44.060) questions: Is water available? Is the proposed use beneficial? Will the proposed use be detrimental to a senior water right? Will the proposed use be detrimental to the public welfare? This discussion focuses on the question of availability, and our review of data concerning water conditions in the basin. It also touches on potential detriment to senior water rights.

Water resource decisions for the Little Spokane River Basin also take place within the context of a specific

Report Continued

The primary goal of the Little Spokane River Basin Water Resources Management Program (WAC 173-555) is "to protect and fully utilize" the basin surface and ground water resources "for the greatest benefit to the people of the State of Washington." Efficient management and enforcement of the water use policies are essential for accomplishment of this primary goal in harmony with the preservation of the natural aesthetic assets in this basin.

It is a fundamental policy of this state that "perennial rivers and streams be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values." Further, lakes and ponds shall be retained substantially in their natural condition.

It is also a desire of the public that a base flow level be established and enforced so that the present aesthetic environment will not be impaired by future water use activities. In consonance with the fundamental policy of the state and public desire, base flows for the Little Spokane River and its tributaries are hereby established as an element of this management program.

No appropriation of surface water shall be made by the Department from the Little Spokane River and its tributaries below the base flow levels established through this policy. The base flow established at the Dartford gage for the period July 1 through September 15 for each year is 115 cfs.

Surface water and/or ground water appropriation permits that will allow direct diversion from or have measurable effect on, streams where base flows have been established, shall be subject to the base flow limitations, and any such permits or certificates shall be appropriately conditioned to assure maintenance of said base flows.

As a result of investigations on water availability, the following tributary streams (and their contributing drainages) to the Little Spokane River will be closed to further consumptive appropriation (except for domestic and normal stockwatering purposes) during the closure period specified (June 1 - October 31, each year): Dry Creek, Otter Creek, Bear Creek, Deer Creek, Dragoon Creek, Deep Creek, Deadman Creek, Little Creek, and the west branch of the Little Spokane River (from the outlet of Eloika Lake to its headwaters). [Water Resources Management Program, Little Spokane River Basin, August 1975].

The attached hydrograph shows how the summertime 7-day low flows have changed over time for the Little Spokane River at Dartford (U.S.G.S. gage 12431000). The linear regression of the flow data shows a decline of 44 cubic feet per second (cfs) for the period 1950 - 1995. The 115 cfs base flow established in Chapter 173-555 WAC has been added as a reference.

Surface water rights from the Little Spokane River and its tributaries (above the Dartford gage) issued since 1950 (when the period of record began) amount to approximately 42 cfs. The "Water Resources Management Program in the Little Spokane River Basin" report states that "it is practically impossible to distinguish inactive water rights from active ones because rights are granted in perpetuity". Data presented in that report indicates that for the Little Spokane River watershed, approximately 41% of the total paper rights issued are typically exercised (which would equate to an instantaneous rate of diversion of 17 cfs for the rights issued since 1950). This 17 cfs cannot account for the 44 cfs decline in summer base flow since the 1950s (see hydrograph).

The summer base flow of the Little Spokane River above Dartford is supplied by ground water discharging to the river system along its course. Available data shows that ground water withdrawals have had a significant impact on the river system and that continued withdrawals will adversely impact the summer flows and result in more frequent regulation of existing surface water right holders who are provisioned with the low-flow cutoff. These people would have to stop using water for all outdoor uses more frequently and/or earlier in the year. During July 1 through September 15, such regulation is triggered when flows at Dartford fall to 115 cfs on an increasingly frequent occurrence.

The summer base flows of the Little Spokane River and its tributaries have been established under the Little Spokane Management Program and any further consumptive uses, other than in-house domestic supply when an alternate source is not available, will further reduce these critical low flows.

Based on availability as well as potential adverse impact to existing water right holders, continued issuance of new water rights for consumptive use, both ground and surface, within the Little Spokane River Basin is not in the public interest.

This request to divert surface water from the unnamed spring for stockwater use is exempt from the permitting requirements of RCW 90.03 and 90.22 by Water Resources Policy POL-1025. Stockwater will not be authorized under this permit but will be allowed under POL-1025.

CONCLUSIONS

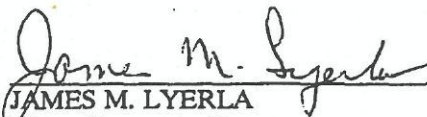
It is concluded that continued issuance of consumptive surface water rights from the Little Spokane River is not in the public interest and will further impact the base flows of the Little Spokane River which is subject to regulation under the Little Spokane River Basin Water Resources Management Program (WAC 173-555).

Based on RCW 90.54.020 and base flows established under the Little Spokane River Basin Management Program it is the conclusion of this examiner that: public surface water is not available for appropriation for continuous stockwater supply and the seasonal irrigation of 43 acres; that stockwater supply and irrigation are beneficial uses; that the appropriation of such water will impair existing rights and be detrimental to the public welfare.

This application for continuous stockwater supply and the seasonal irrigation of 43 acres should be DENIED.

The applicant is advised that diversion of surface water for stockwater use is allowed under POL-1025 and will not require an appropriative right.

Signed at Spokane, Washington
this 8th day of February, 1996


JAMES M. LYERLA
Water Resources Program
Department of Ecology

BEFORE THE
DEPARTMENT OF ECOLOGY
STATE OF WASHINGTON

IN THE MATTER OF APPLICATION)
NUMBER S3-29684 FOR PERMIT TO)
APPROPRIATE PUBLIC WATERS)

FINDINGS OF FACT
AND
ORDER

Upon review of the Examiner's report, I find that all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, in accordance with the Examiner's report, I find that the subject application cannot be approved.

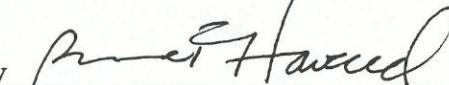
IT IS ORDERED that Application Number S3-29684 be and is denied.

Issuance of this Report of Examination is an appealable decision under Chapter 43.21B RCW. If you would like to appeal this order and determination, you must file your appeal with the Pollution Control Hearings Board, P. O. Box 40903, Olympia, WA 98504-0903 within thirty (30) days of your receipt of this letter and the attached Report of Examination. A copy of your appeal must also be sent to the Department of Ecology, Shorelands and Water Resources Program, c/o Linda Pilkey-Jarvis, P.O. Box 47600, Olympia, WA 98504-7600 within thirty (30) days of receipt of this letter and the attached Report of Examination.

Signed at Spokane, Washington this 8th day of February, 1996.

MARY RIVELAND, Director
Department of Ecology

by



BRUCE F. HOWARD
Section Manager
Shorelands and Water Resources Program

CERTIFIED MAIL

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2
- Complete items 3, and 4a &
- Print your name and address on return this card to you.
- Attach this form to the front of the mailpiece. Leave blank if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

DAVID SEVERN
12411 NORHT VISTAWOOD CT
SPOKANE WA 99218

4a. Article Number

Z 196 412 349

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ SOD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

S3-29684

5. Signature (Addressee)

6. Signature (Agent)



Thank you for using Return Receipt Service.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

DENIAL

REPORT OF EXAMINATION

TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

☒

Surface Water

(Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)

☐

Ground Water

(Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE April 13, 1994	APPLICATION NUMBER S3-29684	PERMIT NUMBER	CERTIFICATE NUMBER
---------------------------------	--------------------------------	---------------	--------------------

NAME DAVID R. SEVERN			
ADDRESS (STREET) 12411 North Vistawood Ct.	(CITY) Spokane	(STATE) Washington	(ZIP CODE) 99218

APPLICATION DENIED - PERMIT REFUSED

PUBLIC WATERS TO BE APPROPRIATED

SOURCE Unnamed Spring		
TRIBUTARY OF (IF SURFACE WATERS) Little Spokane River		
MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR
QUANTITY, TYPE OF USE, PERIOD OF USE		

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION-WITHDRAWAL					
LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) NW1/4NW1/4	SECTION 7	TOWNSHIP N. 26	RANGE, (E. OR W.) W.M. 43 E.	W.R.I.A. 55	COUNTY Spokane

RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
-----	-------	------------------------------------

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

DESCRIPTION OF PROPOSED WORKS

N/A

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:

N/A

COMPLETE PROJECT BY THIS DATE:

N/A

WATER PUT TO FULL USE BY THIS DATE:

N/A

REPORT

BACKGROUND

An application to appropriate public surface water was submitted by David R. Severn to the Department of Ecology on April 13, 1994, in the amount of 1 cubic foot per second for the seasonal irrigation of 43 acres and continuous stockwater supply. The application was accepted and assigned Surface Water Application No. S3-29684. The proposed point of diversion will be located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 7, T. 26 N., R. 43 E.W.M. in Spokane County, Washington.

A notice of application was duly published in accordance with RCW 90.03.280; no protests or objections were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

INVESTIGATION

A field examination was conducted on August 24, 1995, by James M. Lyerla. The applicant's project is located east of the Spokane Country Club and adjacent to the Little Spokane River. The applicant presently has a home and associated outbuildings constructed on the property. It appeared that the irrigation system for this proposed project was being installed on the date of the examination. However, there was no pump at the applied-for point of diversion. Domestic water is supplied to the residence through a private water system.

The source of surface water that the applicant has applied for is actually being produced from a well that penetrated the local clay aquitard and blew out due to improper casing. Many unsuccessful attempts were made to seal this flowing well. This well was originally drilled as a stockwater well and was exempt from the permitting requirements of RCW 90.44.

On the date of the field examination, the spring flow resulting from this flowing well was in excess of 1 cubic foot per second. The flow of the well was in excess of 4 cubic feet per second when it was first constructed and appeared to be somewhat less on the date of this examination.

When the well casing failed, a large pond was formed as the surrounding land surface was eroded away by the artesian flow. The surface water then enters a natural channel and flows to a second larger pond, then ultimately discharges to the Little Spokane River. The applicant has applied for stockwater supply and the irrigation of 43 acres from this unnamed spring/pond formed by the failed well.

HYDRAULIC CONTINUITY WITH THE LITTLE SPOKANE RIVER BASIN

The Department is in the process of making decisions on approximately 40 water right applications in the Little Spokane River Watershed. As a part of every water right decision, the Department must answer four statutory (RCWs 90.03.290 and 90.44.060) questions: Is water available? Is the proposed use beneficial? Will the proposed use be detrimental to a senior water right? Will the proposed use be detrimental to the public welfare? This discussion focuses on the question of availability, and our review of data concerning water conditions in the basin. It also touches on potential detriment to senior water rights.

Water resource decisions for the Little Spokane River Basin also take place within the context of a specific management plan, developed as a regulation (Chapter 173-555 WAC) based on public input over 20 years ago. Following are excerpts from "Water Resources Management Program in the Little Spokane River Basin," August 1975, a report providing background and reference for the regulation. Even in 1975, water availability was of such concern that the major tributaries of the Little Spokane River were closed to further appropriation, and water rights issued were conditioned to specific "base" flows.

The primary goal of the Little Spokane River Basin Water Resources Management Program (WAC 173-555) is "to protect and fully utilize" the basin surface and ground water resources "for the greatest benefit to the people of the State of Washington." Efficient management and enforcement of the water use policies are essential for accomplishment of this primary goal in harmony with the preservation of the natural aesthetic assets in this basin.

It is a fundamental policy of this state that "perennial rivers and streams be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values." Further, lakes and ponds shall be retained substantially in their natural condition.

It is also a desire of the public that a base flow level be established and enforced so that the present aesthetic environment will not be impaired by future water use activities. In consonance with the fundamental policy of the state and public desire, base flows for the Little Spokane River and its tributaries are hereby established as an element of this management program.

No appropriation of surface water shall be made by the Department from the Little Spokane River and its tributaries below the base flow levels established through this policy. The base flow established at the Dartford gage for the period July 1 through September 15 for each year is 115 cfs.

Surface water and/or ground water appropriation permits that will allow direct diversion from or have measurable effect on, streams where base flows have been established, shall be subject to the base flow limitations, and any such permits or certificates shall be appropriately conditioned to assure maintenance of said base flows.

As a result of investigations on water availability, the following tributary streams (and their contributing drainages) to the Little Spokane River will be closed to further consumptive appropriation (except for domestic and normal stockwatering purposes) during the closure period specified (June 1 - October 31, each year): Dry Creek, Otter Creek, Bear Creek, Deer Creek, Dagoon Creek, Deep Creek, Deadman Creek, Little Creek, and the west branch of the Little Spokane River (from the outlet of Eloika Lake to its headwaters). [Water Resources Management Program, Little Spokane River Basin, August 1975].

The attached hydrograph shows how the summertime 7-day low flows have changed over time for the Little Spokane River at Dartford (U.S.G.S. gage 12431000). The linear regression of the flow data shows a decline of 44 cubic feet per second (cfs) for the period 1950 - 1995. The 115 cfs base flow established in Chapter 173-555 WAC has been added as a reference.

Surface water rights from the Little Spokane River and its tributaries (above the Dartford gage) issued since 1950 (when the period of record began) amount to approximately 42 cfs. The "Water Resources Management Program in the Little Spokane River Basin" report states that "it is practically impossible to distinguish inactive water rights from active ones because rights are granted in perpetuity". Data presented in that report indicates that for the Little Spokane River watershed, approximately 41% of the total paper rights issued are typically exercised (which would equate to an instantaneous rate of diversion of 17 cfs for the rights issued since 1950). This 17 cfs cannot account for the 44 cfs decline in summer base flow since the 1950s (see hydrograph).

The summer base flow of the Little Spokane River above Dartford is supplied by ground water discharging to the river system along its course. Available data shows that ground water withdrawals have had a significant impact on the river system and that continued withdrawals will adversely impact the summer flows and result in more frequent regulation of existing surface water right holders who are provisioned with the low-flow cutoff. These people would have to stop using water for all outdoor uses more frequently and/or earlier in the year. During July 1 through September 15, such regulation is triggered when flows at Dartford fall to 115 cfs, an increasingly frequent occurrence.

Examination of the hydrograph shows that since 1975, the summer base flow at Dartford has dropped below the established base flow (115 cfs) 13 times in 21 years. In the period 1947 through 1974 (27 years), years prior to the establishment of the base flow, the summer low flow only dropped below 115 cfs four times.

Base flows of the Little Spokane River have been impacted by both ground water and surface water withdrawals/diversions. These withdrawals/diversions have resulted in reduced base flows during the summer months to the extent that regulation of existing rights is required more frequently.

Report Continued

The Water Resources Act of 1971, Chapter 90.54.020 (3) (a) states:

" Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served".

The summer base flows of the Little Spokane River and its tributaries have been established under the Little Spokane Management Program and any further consumptive uses, other than in-house domestic supply when an alternate source is not available, will further reduce these critical low flows.

Based on availability as well as potential adverse impact to existing water right holders, continued issuance of new water rights for consumptive use, both ground and surface, within the Little Spokane River Basin is not in the public interest.

This request to divert surface water from the unnamed spring for stockwater use is exempt from the permitting requirements of RCW 90.03 and 90.22 by Water Resources Policy POL-1025. Stockwater will not be authorized under this permit but will be allowed under POL-1025.

CONCLUSIONS

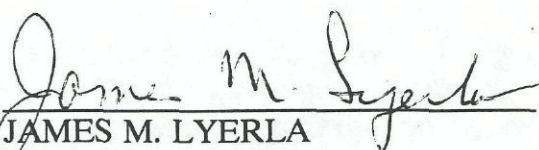
It is concluded that continued issuance of consumptive surface water rights from the Little Spokane River is not in the public interest and will further impact the base flows of the Little Spokane River which is subject to regulation under the Little Spokane River Basin Water Resources Management Program (WAC 173-555).

Based on RCW 90.54.020 and base flows established under the Little Spokane River Basin Management Program it is the conclusion of this examiner that: public surface water is not available for appropriation for continuous stockwater supply and the seasonal irrigation of 43 acres; that stockwater supply and irrigation are beneficial uses; that the appropriation of such water will impair existing rights and be detrimental to the public welfare.

This application for continuous stockwater supply and the seasonal irrigation of 43 acres should be DENIED.

The applicant is advised that diversion of surface water for stockwater use is allowed under POL-1025 and will not require an appropriative right.

Signed at Spokane, Washington
this 8th day of February, 1996


JAMES M. LYERLA
Water Resources Program
Department of Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N. Monroe, Suite 202 • Spokane, Washington 99205-1295 • (509) 456-2926

February 8, 1996

CERTIFIED MAIL (Z 196 412 349)

David R. Severn
12411 North Vistawood Ct.
Spokane, WA 99218

Dear Mr. Severn:

RE: Surface Water Application No. S3-29684

Enclosed find a copy of the Department of Ecology's Report of Examination. This report constitutes our determination and order regarding the above referenced application.

Your application has been denied.

Issuance of this Report of Examination is an appealable decision under Chapter 43.21B RCW. If you would like to appeal this order and determination, you must file your appeal with the Pollution Control Hearings Board, P. O. Box 40903, Olympia, WA 98504-0903 within thirty (30) days of your receipt of this letter and the attached Report of Examination. A copy of your appeal must also be sent to the Department of Ecology, Shorelands and Water Resources Program, c/o Linda Pilkey-Jarvis, P.O. Box 47600, Olympia, WA 98504-7600 within thirty (30) days of receipt of this letter and the attached Report of Examination.

Sincerely,

Bruce F. Howard
Section Manager
Shorelands and Water Resources Program

BFH:mjw
Enclosure

AFF. EXP.
7-29-94

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

FAMILY FARM PERMIT

REPORT OF EXAMINATION
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

- ☒ Surface Water (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
☐ Ground Water (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE April 13, 1994	APPLICATION NUMBER S329684	PERMIT NUMBER	CERTIFICATE NUMBER
NAME David R. Severn			
ADDRESS (STREET) (CITY) (STATE) (ZIP CODE) N. 12411 Vistawood Ct. Spokane, WA 99218			
PUBLIC WATERS TO BE APPROPRIATED			
SOURCE Unnamed Spring			
TRIBUTARY OF (IF SURFACE WATERS) Little Spokane River			
MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR	
QUANTITY, TYPE OF USE, PERIOD OF USE			
LOCATION OF DIVERSION/WITHDRAWAL			
APPROXIMATE LOCATION OF DIVERSION-WITHDRAWAL			
LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)			
SECTION 7	TOWNSHIP N. 26	RANGE, (E. OR W.) W.M. 43 E.	W.R.I.A. COUNTY 55 SP.
RECORDED PLATTED PROPERTY			
LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)	
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED			

PG 89

10-24-95

this report is applied for from Black Hole pond
as source - denied? subject to low flow - little Spokane
system being installed -!
large town existing 3 AC⁺ - what source - community
supply?
actually this is a well - Black Hole pond.

Ⓢ LITTLE SP. River -
BLACK HOLE -

Check prior rights

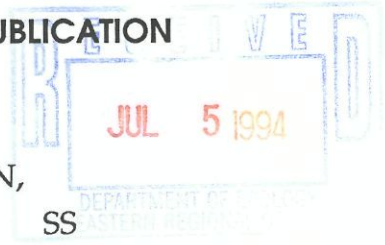
possibly - Hillyard & Drough water?

DESCRIPTION OF PROPOSED WORKS

DEVELOPMENT SCHEDULE		
BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER PUT TO FULL USE BY THIS DATE:

REPORT

AFFIDAVIT OF PUBLICATION



STATE OF WASHINGTON,

SS

COUNTY OF SPOKANE

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATERS
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

TAKE NOTICE:
 That David R. Severn of Spokane, Washington on April 13, 1994 under Application No. S3-29684 filed for permit to appropriate public waters, subject to existing rights, from an unnamed spring tributary to the Little Spokane River in the amount of 1.00 cubic foot per second, each year, for continuous stockwater and seasonal irrigation of 43 acres. The source of the proposed appropriation is located within the NW 1/4 NW 1/4 of Section 7, Township 26 N., Range 43 E.W.M., in Spokane County.

Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00 recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from June 29, 1994.

State of Washington
 Department of Ecology
 N. 4601 Monroe, Suite 202
 Spokane, WA 99205-1295
 PUBLISHED in the Tribune June 22, and June 29, 1994.

OK
 EENE

The undersigned, on oath states that he is an authorized representative of The Tri-County Tribune, a weekly newspaper, which newspaper is a legal newspaper of general circulation published in Deer Park, Washington; that said newspaper has been published regularly, at least once a week, in the English language, as a newspaper of general circulation, in the county of Spokane, State of Washington, for at least six months prior to its date of approval by order of the Superior Court of Spokane County as a legal newspaper, and at all times herein mentioned has been printed either in whole or in part in the office maintained at said place of business. The annexed is a printed copy, was published in the regular and entire issue of said newspaper for a period of 2 consecutive weeks; commencing on the 22nd day of June and ending on the 29th day of June both dates inclusive, and that said newspaper was regularly distributed to its subscribers during all of said period.

T. C. Coff

Subscribed and sworn to before me this 29th day of June, 1994.

Barbara L. Johnson
 Notary Public in and for the State of Washington



COPY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

N. 4601 Monroe, Suite 202 • Spokane, Washington 99205-1295 • (509) 456-2926

June 9, 1994

David R. Severn
N. 12411 Vistawood Ct.
Spokane WA 99218

Dear Mr. Severn:

Re: Surface Water Application No. S3-29684

We have received your application for the appropriation of water and it has been assigned the above number. Will you please refer to it by number in future correspondence.

Enclosed is a notice of your application which must be published once a week for two consecutive weeks in the Spokesman-Review or the Tribune published in Spokane County as provided in RCW 90.03.280. These newspapers have general circulation in the locality where the water is to be appropriated and used and are qualified as legal newspapers as provided in Chapter 65.16 RCW.

Please draw to the publisher's attention that the actual date of the second publication must appear in the space in the notice over the caption "last date of publication".

To assure accuracy, it is the responsibility of the applicant to check the notice carefully before having it published. If an error is detected, do not submit the notice for publication, but refer the error to this office for correction and/or resolution.

Please provide us with the original notarized affidavit of that publication. Publication should start within thirty (30) days and the affidavit must be received in this office within sixty (60) days from date of letter or rejection will be initiated.

Sincerely,

Gene Drury
Technical and Enforcement Unit
Water Resources Program

GD:aal
Enclosure

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATERS

TAKE NOTICE:

That David R. Severn of Spokane, Washington on April 13, 1994 under Application No. S3-29684 filed for permit to appropriate public waters, subject to existing rights, from an unnamed spring tributary to the Little Spokane River in the amount of 1.00 cubic foot per second, each year, for continuous stockwater and seasonal irrigation of 43 acres. The source of the proposed appropriation is located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, Township 26 N., Range 43 E.W.M., in Spokane County.

Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from

(Last date of publication to be entered above by publisher)

State of Washington
Department of Ecology
N. 4601 Monroe, Suite 202
Spokane, WA 99205-1295

RECEIVED
APR 25 1994
DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

CASHIERING RECEIPT
PAGE: 1 OF 1

AMOUNT: \$110.00
DATE: 04/18/94
RECEIPT NO: 94-100551
CHECK/MO NO: 841

PHONE: (206) 407-7095
P.O. BOX 5128
LACEY, WA 98503-0210

PERMIT NO:
MANIFEST NO:
CASHIER: GNIE461

(For low-level surcharge only.)

- 1.
- 2.
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- 4.
- 5.
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- 7.
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- 9.

5329684

FOR ACCOUNTING PURPOSES:
CJ NO: 461C0832

[illegible]

DATE: 04/15/94

RECEIVED
APR 19 1994
DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

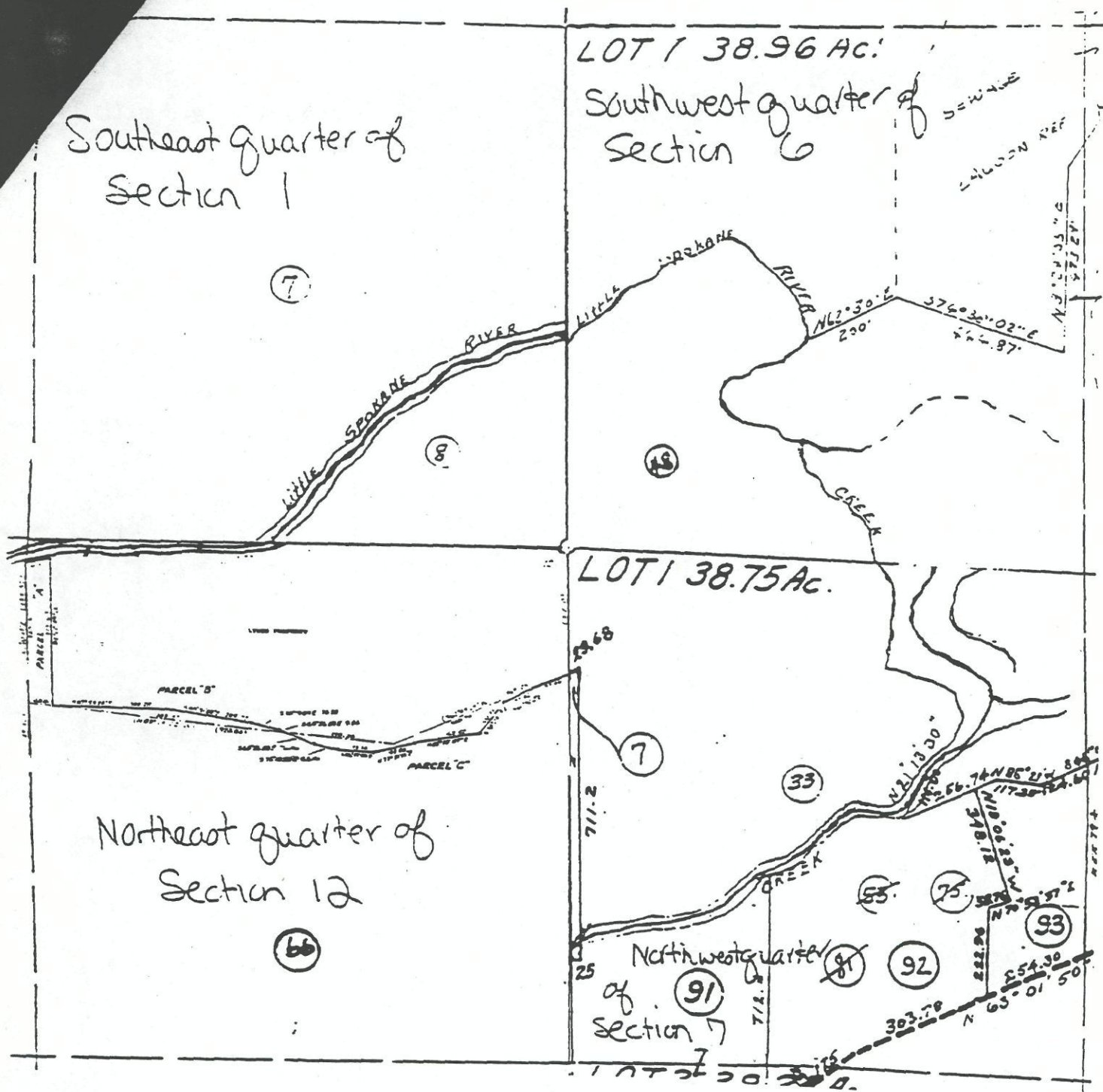
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(For low-level surcharge only.)

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5329684

[illegible]



A PORTION OF THE SE QUARTER OF SECTION 1, TOWNSHIP 26 NORTH, RANGE 42, EAST, W.M.
 AND A PORTION OF THE NE QUARTER OF SECTION 12, TOWNSHIP 26 NORTH, RANGE 42, EAST, W.M.
 AND A PORTION OF THE NE QUARTER OF SECTION 7, TOWNSHIP 26 NORTH, RANGE 43, EAST, W.M.
 AND A PORTION OF THE SW QUARTER OF SECTION 6, TOWNSHIP 26 NORTH, RANGE 43, EAST, W.M.



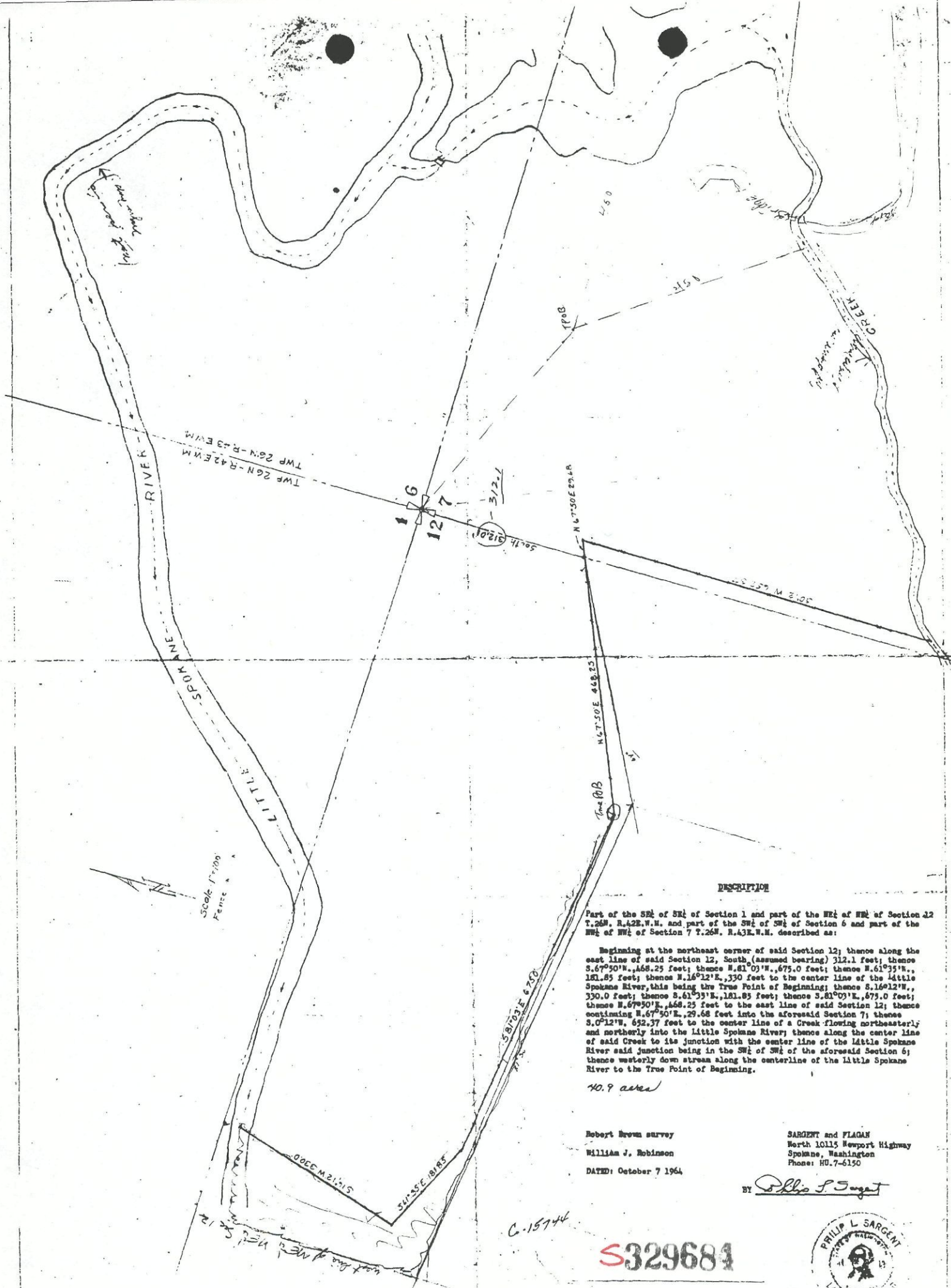
**SPOKANE
COUNTY
TITLE**

S329684

THIS SKETCH IS FURNISHED FOR INFORMATIONAL PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION. DIMENSIONS ARE NOT GUARANTEED AND MUST NOT BE RELIED UPON TO DETERMINE ACREAGE OR SHAPE. THIS COMPANY ASSUMES NO LIABILITY FOR LOSS INCURRED BY REASON OF RELIANCE THEREON.

SPOKANE COUNTY TITLE COMPANY
326-2626

"Service Is The Difference"



DESCRIPTION

Part of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 1 and part of the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 12 T.26N. R.42E.W.M. and part of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 6 and part of the NW $\frac{1}{4}$ of Section 7 T.26N. R.42E.W.M. described as:

Beginning at the northeast corner of said Section 12; thence along the east line of said Section 12, South (assumed bearing) 312.1 feet; thence S.67°50'W., 468.25 feet; thence N.81°03'W., 675.0 feet; thence N.61°35'W., 181.85 feet; thence N.16°12'E., 330 feet to the center line of the Little Spokane River, this being the True Point of Beginning; thence S.16°12'W., 330.0 feet; thence S.61°33'E., 181.85 feet; thence S.81°03'W., 675.0 feet; thence N.67°50'W., 468.25 feet to the east line of said Section 12; thence continuing N.67°50'W., 29.68 feet into the aforesaid Section 7; thence S.0°12'W., 652.37 feet to the center line of a Creek flowing northeasterly and northerly into the Little Spokane River; thence along the center line of said Creek to its junction with the center line of the Little Spokane River said junction being in the SW $\frac{1}{4}$ of the aforesaid Section 6; thence westerly down stream along the centerline of the Little Spokane River to the True Point of Beginning.

40.9 acres

Robert Brown survey

William J. Robinson

DATED: October 7 1964

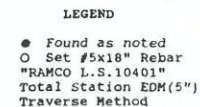
SARGENT and FLAGAN
North 10115 Newport Highway
Spokane, Washington
Phone: HU-7-6150

BY Philip L. Sargent

S329684



329684



0 50

Legal descriptions of 3 parcels being portions of the northeast quarter of the northeast quarter of Section 12, Township 26 North, Range 42 East W.M., Spokane County, Washington, more particularly described as follows:

PARCEL "B" - Commencing at the northeast corner of Section 12, thence SOUTH along the east line of Section 12 a distance of 312.10 feet, thence S 67°49'19" W 468.25 feet, thence N 83°19'02" W 275.26 feet to the POINT OF BEGINNING, thence continuing N 83°19'02" W 595.57 feet, thence S 87°53'24" E 9.84 feet to the POINT OF BEGINNING. Containing 8,157 square feet, or 0.187 Acres.

PARCEL "C" - Commencing at the northeast corner of Section 12, thence SOUTH along the east line of Section 12 a distance of 312.10 feet, thence S 67°49'19" W 97.46 feet to the POINT of BEGINNING, thence continuing S 67°49'19" W 370.79 feet, thence N 83°19'02" W 275.26 feet, thence S 65°26'58" E 76.46 feet, thence S 76°18'28" E 63.16 feet, thence S 86°19'58" E 93.14 feet, thence N 77°31'14" E 103.88 feet, thence N 82°10'59" E 162.02 feet, thence N 38°08'13" E 100.95 feet, thence N 61°50'12" E 77.82 feet to the POINT of BEGINNING.
Containing 17,623 square feet, or 0.405 Acres.

NOTE:
Bearings and distances shown in parentheses, (), are from a survey done in July 1984 by J. Paul Ramer for the Spokane Country Club. Recorded in Book 32 of Surveys, Page 71, Spokane County, Washington.

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY
ME ON UNDER MY DIRECTION IN CONFORMANCE WITH THE
REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE
REQUEST OF MR. JACK LYNCH
IN NOVEMBER, 1930
Richard A. Main
CITY PLATE NO. L.S. 10401

RAMCO Surveyors
N. 7721 Whitehouse
Spokane, WA. 99208
(509) 467-0694

Exhibit "I"

That portion of the Southeast Quarter of the Southeast Quarter of Section 1, Township 26 North, Range 42 East of the Willamette Meridian;

AND that portion of the Northeast Quarter of the Northeast Quarter of Section 12, Township 26 North, Range 42 East of the Willamette Meridian;

AND that portion of the Southwest Quarter of the Southwest Quarter of Section 6, Township 26 North, Range 43 East of the Willamette Meridian;

AND that portion of the Northwest Quarter of the Northwest Quarter of Section 7, Township 26 North, Range 43 East of the Willamette Meridian, described as follows:

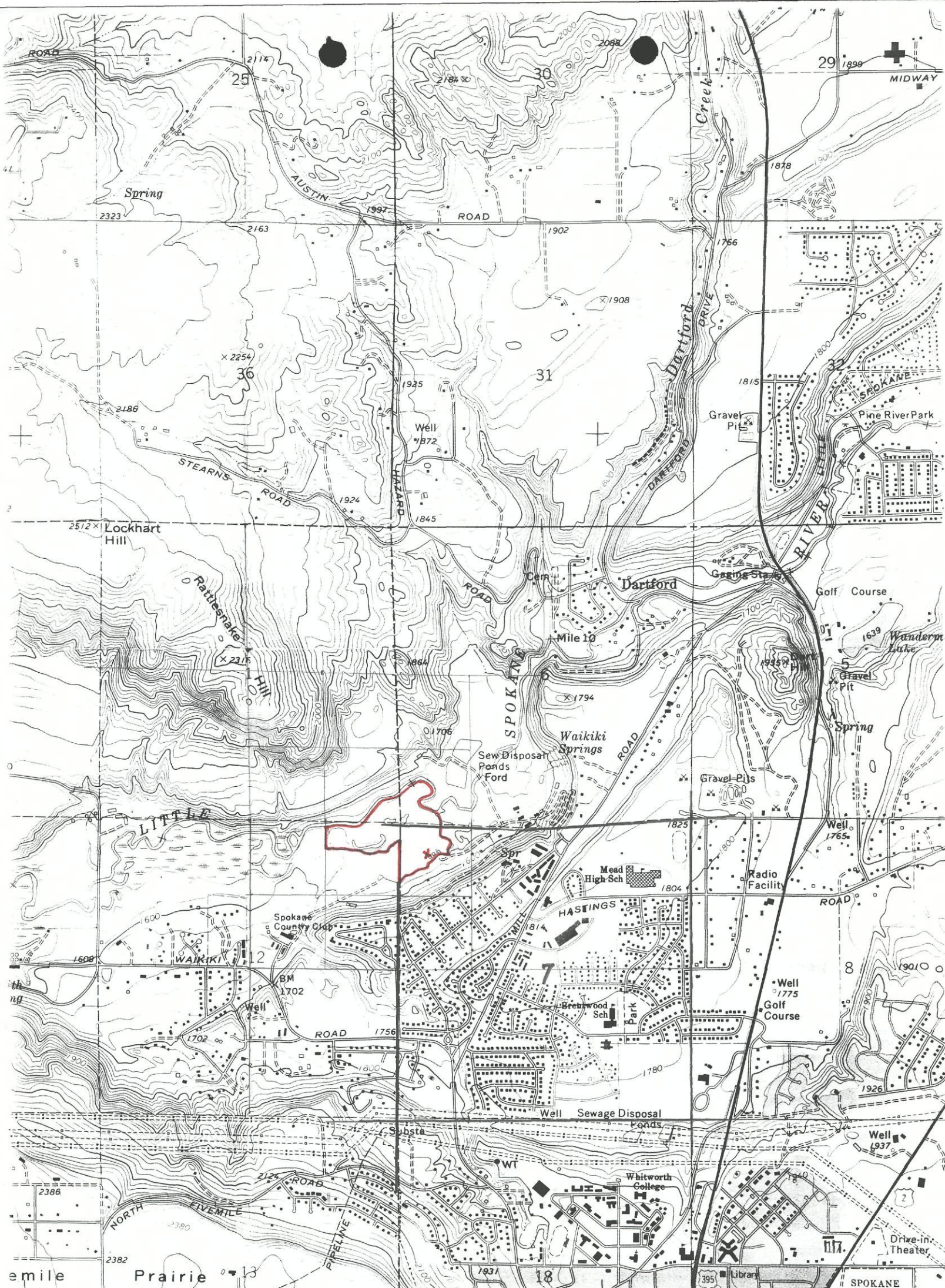
BEGINNING at the Northeast corner of Section 12;
Thence South along the East line of Section 12, a distance of 312.10 feet;
Thence South 67° 49' 19" West 97.46 feet;
Thence South 61° 50' 12" West 77.82 feet;
Thence South 38° 08' 13" West 100.95 feet;
Thence South 82° 10' 59" West 162.02 feet;
Thence South 77° 31' 14" West 103.88 feet;
Thence North 86° 19' 58" West 93.14 feet;
Thence North 76° 18' 28" West 63.16 feet;
Thence North 65° 26' 58" West 86.30 feet;
Thence North 74° 17' 09" West 70.28 feet;
Thence North 80° 31' 02" West 205.72 feet;
Thence North 87° 53' 24" West 302.28 feet;
Thence North 0° 00' 49" East 375.60 feet;
Thence South 77° 35' 09" West 61.03 feet to a point on the West line of the Northeast Quarter of the Northeast Quarter;
Thence North 0° 00' 49" East along said west line 80.00 feet to the Northwest corner of the Northeast Quarter of the Northeast Quarter, said point being the True Point of Beginning;
Thence South 0° 00' 49" West along said West line 80 feet;
Thence North 77° 35' 09" East 61.03 feet;
Thence South 0° 00' 49" West 375.60 feet;
Thence South 87° 53' 24" East 302.28 feet;
Thence South 80° 31' 02" East 205.72 feet;
Thence South 74° 17' 09" East 70.28 feet;
Thence South 65° 26' 58" East 86.30 feet;
Thence South 76° 18' 28" East 63.16 feet;
Thence South 86° 19' 58" East 93.14 feet;
Thence North 77° 31' 14" East 103.88 feet;
Thence North 82° 10' 59" East 162.02 feet;
Thence North 38° 08' 13" East 100.95 feet;
Thence North 61° 50' 12" East 72.82 feet;
Thence North 67° 49' 19" East 97.46 feet;
Thence continuing North 67° 50' East, 29.68 feet into said Section 7;
Thence South 0° 12' West, 652.37 feet to the center line of a creek flowing Northeasterly and Northerly into the Little Spokane River;
Thence along the center line of said creek to its junction with the center line of the Little Spokane River, said junction being in the Southwest Quarter of the Southwest Quarter of said Section 6;

Order No. 62661
Exhibit "I" Continued
Page 2

Thence Westerly downstream along the center line of the Little Spokane River to the Intersection of said Little Spokane River with the North line of the Northeast Quarter of the Northeast Quarter of Section 12;
Thence West along said North line to the True Point of Beginning;

Situate in the County of Spokane, State of Washington.

S329684



emile 7'30" 466 (SPOKANE NW) R 42 E R 43 E 468 25' 0.8 MI. TO U.S. 395 SPOKANE (INTERSTATE 90) 7 MI. 470

SCALE 1:24 000

1 1000 0 1000 2000 3000 4000 5000 6000 7000 FEET

1 5 0 1 KILOMETER

CONTOUR INTERVAL 20 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

Primary highway, hard surface
Secondary highway, hard surface
Interstate Route

WASHINGTON

QUADRANGLE LOCATION

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

Revisions shown in purple compiled from aerial photographs taken 1982 and other sources
This information not field checked. Map edited 1982

FOR SALE BY

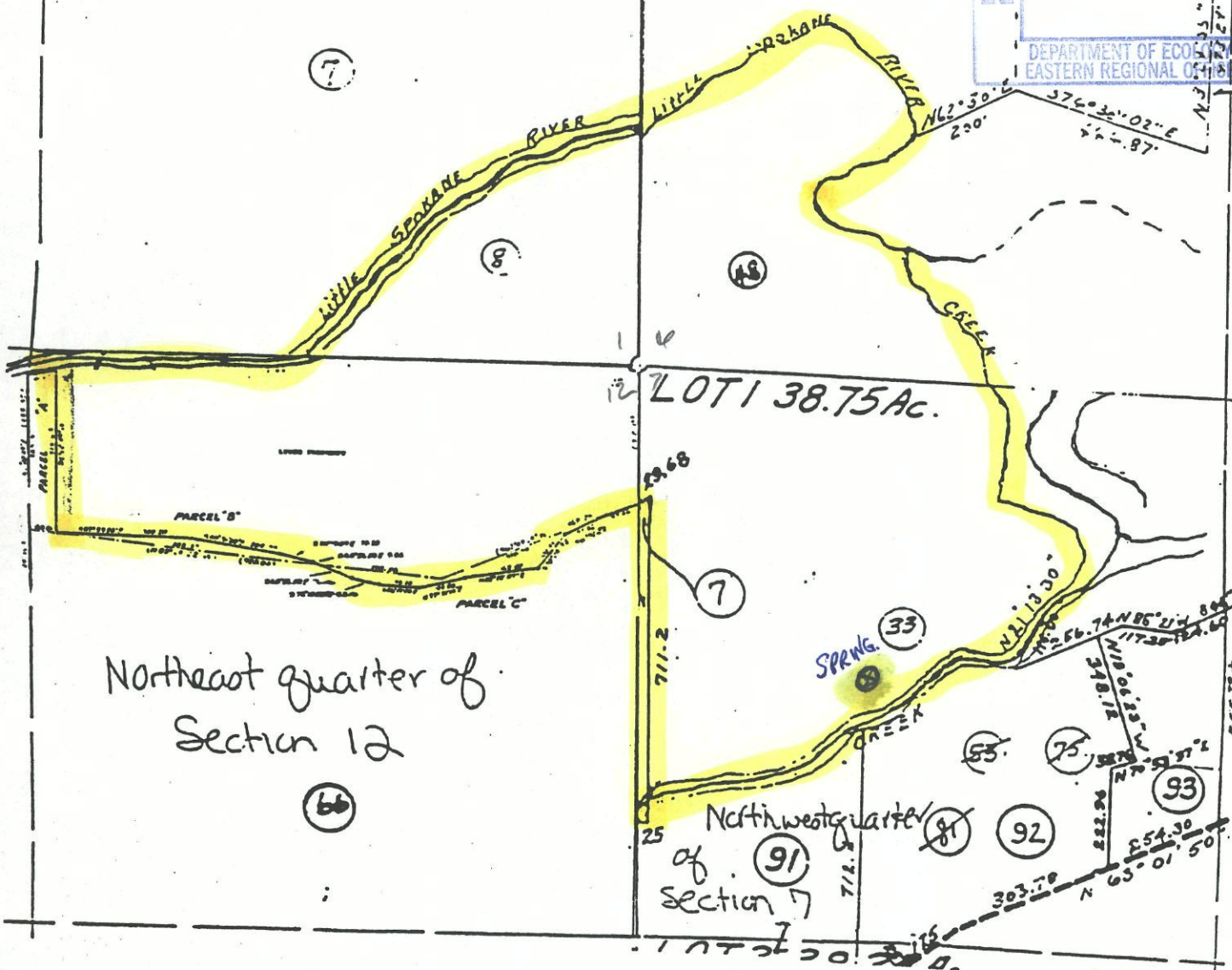
TOWNSHIP 26 N., R.
SPOKANE COUNTY

This is a detailed historical map of Spokane, Washington, showing streets, landmarks, and property boundaries. The map includes labels for "To Deer Park", "To Colbert", "To Nine Mile Falls", "To Spokane", and "To Spokane". Key landmarks include "Wandermere Lk.", "Aluminum Reduction Plant", "Magnesium Plant", "Hillyard U.S. Cemeteries", "Oil Refinery", and "Calkins Air Terminal". The map is divided into numbered sections (1-34) and includes various street names and property owners' names.

Southeast quarter of
Section 1

LOT 1 38.96 Ac.

Southwest quarter of
Section 6



Northeast quarter of
Section 12

Northwest quarter
of Section 7

A PORTION OF THE SE QUARTER OF SECTION 1, TOWNSHIP 26 NORTH, RANGE 42, EAST, W.M.
AND A PORTION OF THE NE QUARTER OF SECTION 12, TOWNSHIP 26 NORTH, RANGE 42, EAST, W.M.
AND A PORTION OF THE NE QUARTER OF SECTION 7, TOWNSHIP 26 NORTH, RANGE 43, EAST, W.M.
AND A PORTION OF THE SW QUARTER OF SECTION 6, TOWNSHIP 26 NORTH, RANGE 43, EAST, W.M.

SPOKANE
COUNTY
TITLE

"Service Is The Difference"



THIS SKETCH IS FURNISHED FOR INFORMATIONAL PURPOSES
ONLY TO ASSIST IN PROPERTY LOCATION. DIMENSIONS ARE
NOT GUARANTEED AND MUST NOT BE RELIED UPON TO
DETERMINE ACREAGE OR SHAPE. THIS COMPANY ASSUMES NO
LIABILITY FOR LOSS INCURRED BY REASON OF RELIANCE
THEREON.

SPOKANE COUNTY TITLE COMPANY
326-2626

S329684



26 - 43

NOTE:

All platted portions of this map are on a
1"=200' scale map filed with the CITY maps.

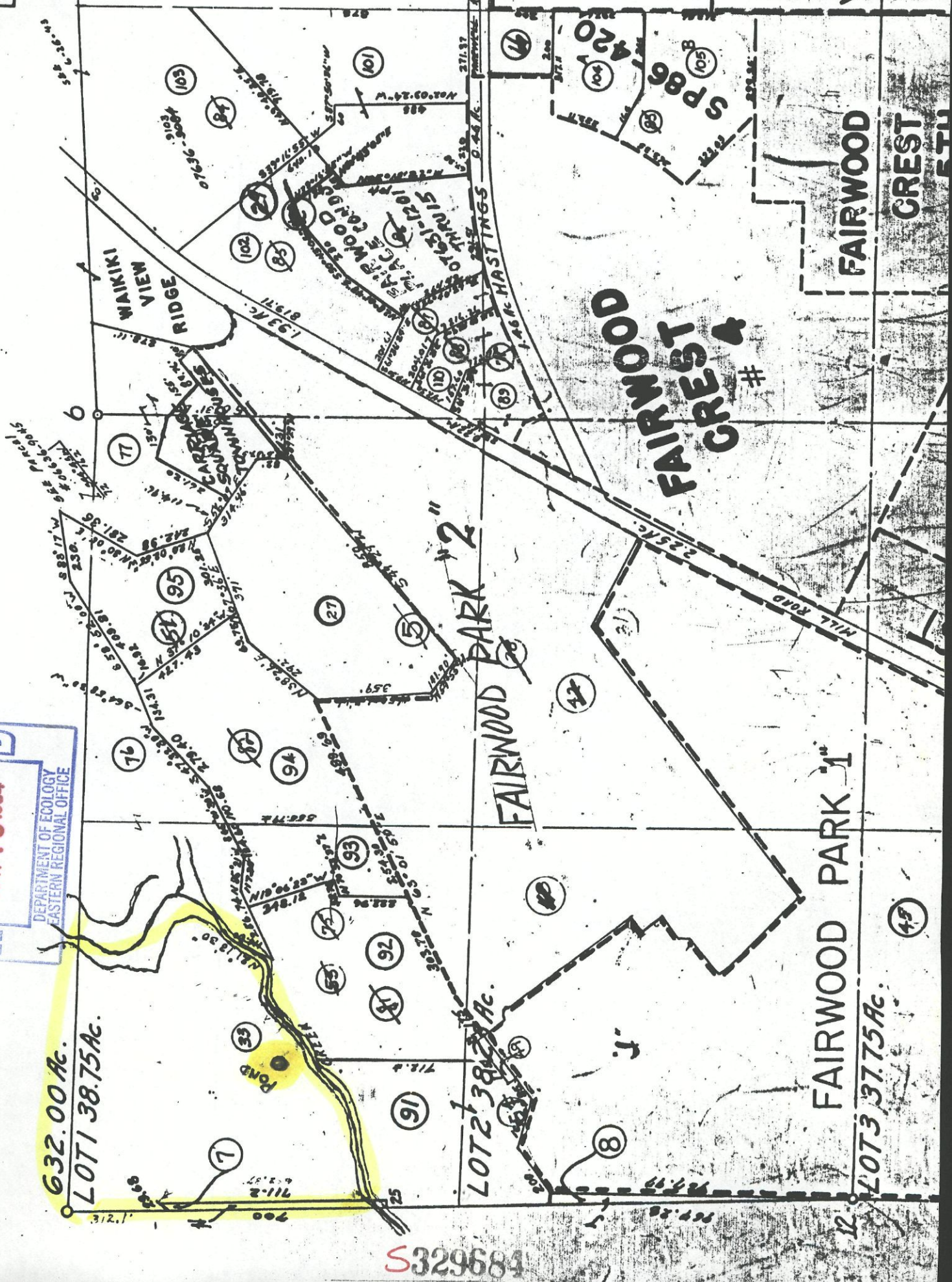
STATE OF WASHINGTON
COUNTY OF SPOKANE

I, S. CHARLENE COONEY Assessor of Spokane
County State of Washington, do hereby certify that
the foregoing instrument is a true and correct copy
of the original thereof now on file in my office.

Date

1

4/7/94



S329684

Custom Excavating

E 6302 GROUSE, CHATTAROY, WA 99003

509-292-2228

Spokane County Club

Property Line



S329684